



State of Utah

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Department of  
Environmental Quality

Kimberly D. Shelley  
Executive Director

DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL

Douglas J. Hansen  
Director

December 11, 2023

Sandra L. Ross, Vice President  
Rio Algom Mining LLC  
4859 Holden Drive  
Rocklin, CA 95677

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
7019 2970 0000 5340 4313

RE: Stipulated Compliance Order, Lisbon Valley Facility Corrective Action Assessment  
Radioactive Materials License Number UT 1900481

Dear Ms. Ross:

A signed original copy of the duly executed Stipulated Compliance Order (SCO) regarding the Lisbon Valley Facility Corrective Action Assessment Work Plan is enclosed. The SCO is dated and effective as of November 30, 2023.

If you have questions, please call Chris Leahy at 385-602-5505.

Sincerely,

Douglas J. Hansen, Director  
Division of Waste Management and Radiation Control

DJH/CL/jk

Enclosure: Signed Original Stipulated Compliance Order without Corrective Action Assessment Work Plan Attached (DRC-2023-077694)

c: Grant Sunada, Executive Director/Health Officer, San Juan County Health Department  
Ronnie Nieves, Environmental Health Director, San Juan County Health Department  
Russell Seeley, District Engineer, UDEQ  
Sandra L. Ross, Vice President, Rio Algom Mining LLC (Email and Hard Copy)  
Stevie Norcross, PhD, Asst. Director, Div. of Waste Management and Radiation Control, UDEQ  
Bret F. Randall, Assistant Attorney General, Utah Attorney General's Office

DRC-2023-077762

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**UTAH DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL**

IN THE MATTER OF RIO ALGOM MINING LLC P.O. Box 218 Grants, NM 87020	<b>AMENDED STIPULATED COMPLIANCE ORDER</b>
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This Amended Stipulated Compliance Order (“Amended SCO”) has been issued by the Director of the Utah Division of Waste Management and Radiation Control (“Director”) pursuant to the legal authorities described below. Rio Algom Mining LLC, a Delaware limited liability company (“Licensee”), has stipulated to the entry of this Amended SCO, as a final administrative order, as described more fully below. This Amended SCO supersedes and replaces the Stipulation and Consent Agreement between the parties, effective July 30, 2019 (the “2019 Agreement”).

**STATUTORY AND REGULATORY AUTHORITY**

1. Utah is an Agreement State for byproduct materials as defined in Section 11e.(2) of the Atomic Energy Act of 1954 (as amended) (the “Atomic Energy Act”), pursuant to Chapters 6, 7, and 8, and Section 161 of the Atomic Energy Act.
2. The Director has issued Radioactive Materials License Number UT 1900481 (the “License”), as amended and renewed, to Licensee pursuant to the Utah Radiation Control Act, Utah Code Section 19-3-101, *et seq.*, and the Utah Radiation Control Rules, Utah Admin. Code R313.
3. The Director serves as the statutory Director of the Division of Water Quality and has responsibility for implementing the Water Quality Act’s groundwater protection program, as to any operation licensed by the Director. *See* Utah Code § 19-5-102(6).
4. While the Director has not required the Licensee to obtain a groundwater discharge permit under the Water Quality Act (Utah Code § 19-5-101 *et seq.*), the Groundwater Quality Protection Rules (Utah Admin. Code R317-6) apply to Licensee and its past operations and ongoing activities pursuant to the License.
5. The Groundwater Quality Protection Rules provide substantive standards that apply to the Licensee and its operations under the License, including rules regarding contamination investigation and corrective action. *See* Utah Admin. Code R317-6-6.15.
6. The primary legal basis for this Amended SCO is the Water Quality Act, and the Groundwater Quality Protection Rules, in accordance with the Director’s position as the Director of the Division of Water Quality for purposes of the License and associated matters. The Director’s statutory authorities specifically include the Director’s authority to access property for purposes of investigation and corrective action, as provided in Utah Code Section 19-5-113.

7. Consistent with the Groundwater Quality Protection Rules, Conditions 29-30 of the License require Licensee to implement a groundwater compliance monitoring, investigation, and corrective action program, including compliance with maximum groundwater concentrations for distinct parameters, listed as Alternate Concentration Limits (“ACLs”), Compliance Limits (“CLs”), and Target Action Levels (“TALs”) for specific monitoring wells.

### **FINDINGS OF FACT**

1. Prior to 2004, the U.S. Nuclear Regulatory Commission (“NRC”) directly regulated all activities and operations at the Lisbon Uranium Milling Facility (“Facility”). The State of Utah was not an Agreement State for uranium mills until 2004. The following facts, as relating to the time before Utah became an Agreement State, are based on the NRC’s administrative record.
2. The Facility is located in the Lisbon Valley, San Juan County in southeastern Utah, approximately two miles south of the town of La Sal. Licensee is the sole owner and sole licensee with responsibility for the Facility.
3. Uranium mining operations began at the Facility in May 1972 and continued until October 1988, when the Lisbon Mine was closed. Milling operations continued until October 1988. Physical facilities associated with the Lisbon Mine and mill have been, for the most part, successfully decommissioned and reclaimed, subject to the issues addressed in this Amended Agreement.
4. The Facility includes two uranium tailings impoundments and various drainage and reclaimed areas. The upper tailings impoundment covers approximately 46 acres, and the lower impoundment covers approximately 48 acres. Consistent with the NRC’s previous licensing actions, neither of the impoundments has constructed bottom liners. A seven-acre former mine water treatment pond called Bisco Lake was located east of the Facility. Underground mine water was discharged to Bisco Lake where it was treated with barium chloride to precipitate radium in solution. Underground mine water is no longer discharged and Bisco Lake was reclaimed as described below.
5. Licensee previously reclaimed the Facility’s upper and lower tailings impoundments, including the placement of final covers. Licensee constructed dams between the impoundments and at the western end of the lower impoundment. Improvements and other structures located at the Facility were decommissioned and reclaimed in 1996, with wastes and debris being buried at the toe of the upper dam of the tailings ponds. Buried debris and wastes included approximately 70,000 cubic yards of coal ash, contaminated mill wastes, waste rock, and about 80 percent of the sediment in Bisco Lake.
6. Despite reclamation operations, tailings seepage and groundwater contamination were documented at the Facility dating back to its operational period. In 1990, Licensee and the NRC entered into a Corrective Action Plan (“1990 CAP”) to address continuing tailings seepage and groundwater contamination. The 1990 CAP included pumping contaminated groundwater from remedial wells and discharging the pumped water to lined evaporation ponds located on top of the upper and lower covered impoundments.

7. During the 1990s, Licensee continued to conduct active groundwater pumping and monitoring at the Facility. Based on data obtained during this time, Licensee prepared an environmental assessment, demonstrating that, despite the active groundwater pumping operations under the 1990 CAP, and the removal of a significant mass of contaminants from the site groundwater, the groundwater quality at the Facility had not significantly improved.
8. Based on the findings in the environmental assessment, in 2001, Licensee submitted to the NRC an application for approval of certain ACLs, TALs, and a Long-Term Groundwater Monitoring Plan (the "LTGMP"). In 2004, prior to the date that Utah became an agreement state for byproduct material, the NRC approved the application for ACLs, TALs, and the LTGMP. The NRC found, at the time, that ACLs and TALs were appropriate based on the data in the environmental assessment.
9. Licensee continued to perform active groundwater pumping at the Facility pursuant to the 1990 CAP until 2004, when the NRC approved the ACLs, TALs, and LTGMP. The NRC's 2004 approval of the ACLs, TALs, and LTGMP superseded the 1990 CAP. The NRC included the ACLs, TALs, and LTGMP as part of its license to Licensee at the time.
10. In 2004, following the foregoing licensing and enforcement actions by the NRC, Utah became an agreement state for uranium mills, and the NRC formally withdrew its regulatory authority in Utah for byproduct material. The 1990 CAP was not in effect at that time.
11. The Director first issued a License to Licensee on February 8, 2005, and the License for the Facility, as amended and renewed, is current and effective. From February 8, 2005, until the present time, the License has included substantially the same ACLs, TALs, and LTGMP as the NRC had in place, in reliance on the NRC's administrative record in existence at that time.
12. Consistent with the Groundwater Quality Protection Rules, License Condition 29 addresses a detailed groundwater compliance monitoring program, based on an approved Groundwater Monitoring Plan and an approved LTGMP.
13. Consistent with the Groundwater Quality Protection Rules, License Condition 29.C defines "out-of-compliance" status regarding groundwater monitoring as "two consecutive exceedances of any contaminant concentration specified in tables 1, 2, or 3 of this license in any well." The Director has documented continuing "out-of-compliance" status conditions at one or more monitoring wells at the Facility since Utah became an agreement state in 2004.
14. Consistent with the Groundwater Quality Protection Rules, License Condition 29.C specifies specific regulatory consequences based on the Director's findings of out-of-compliance status for any monitoring well, including initiation of accelerated monitoring.

15. On February 7, 2011, the Director issued to Licensee an enforcement action styled as a Notice of Enforcement Discretion and Confirmatory Action Letter (“2011 CAL”) regarding then out-of-compliance status of one or more monitoring wells. In the 2011 CAL, the Director noted that concentration trends at a certain monitoring well were inconsistent with the groundwater modeling predictions (analyzed conditions) which formed the basis for the NRC’s approval of the ACLs and TALs that the Director had adopted as part of the License, based on the NRC’s findings.
16. In response to the 2011 CAL, Licensee agreed to, and implemented, certain actions, including engaging a qualified contractor to conduct a Supplemental Site Investigation, submission of a corrective action plan, revisiting the regulatory basis of the ACLs and TALs established by the NRC in 2004, and other actions.
17. On July 22, 2014, Licensee submitted a Supplemental Site Assessment (the “2014 SSA”) report, including a revised groundwater conceptual and numerical modeling and proposed revised ACLs and TALs. By letter dated October 17, 2014, the Director found that the 2014 SSA did not support the approval of revised groundwater modeling and revised ACLs and TALs for the Facility to protect public health and the environment.
18. Pursuant to a Stipulation and Consent Agreement dated May 9, 2016 (the “2016 SCA”), Licensee agreed to implement certain specific work to augment the 2014 SSA. On August 30, 2018, Licensee submitted a draft final report for its work under the 2016 SCA. The draft final report included a Tailings Impoundments Water Balance Modeling Report (the “2016 Water Balance Model”) and a Hydrogeological Supplemental Site Assessment in 3 Volumes (the “2016 SSA”).
19. On April 17, 2019, the Director sent Licensee a Request for Additional Information regarding the 2016 Water Balance Model and the 2016 SSA, resulting in Licensee’s submission of a new Work Plan for the Hydrogeological Supplemental Site Assessment, Phase 4, dated June 21, 2019 (the “2019 Work Plan”).
20. The Director approved the 2019 Work Plan pursuant to the 2019 Agreement. To date, Licensee has substantially complied with the requirements of the 2019 Work Plan. However, based on evaluation of draft reports and supplemental data, Licensee has proposed, and the Director has accepted as complete, an updated Corrective Action Assessment Work Plan dated November 16, 2022 (the “2022 Work Plan”) (attached hereto as Exhibit A). The 2022 Work Plan describes all outstanding tasks, based on information received to date, that Licensee is required to complete in connection with the investigation and characterization work the Director has deemed appropriate.
21. The 2022 Work Plan, as accepted by the Director, meets Licensee’s obligations under R317-6-6.15(C) and (D)(1) to provide a Contamination Investigation.

## ORDER

1. This Amended SCO amends and supersedes the 2019 Agreement.
2. The 2019 Work Plan is hereby replaced by the 2022 Work Plan.
3. Licensee shall submit a Field Investigation Report and Corrective Action Assessment Plan as described in Sections 7 and 8 of the 2022 Work Plan. Subject to claims of *force majeure* described in paragraph 4 below, the Field Investigation Report shall be submitted on or before July 1, 2026 and the Corrective Action Assessment Plan shall be submitted on or before November 2, 2026. Licensee shall otherwise provide all documentation of all studies and tasks performed by Licensee as outlined in the 2022 Work Plan. Licensee shall provide timely responses to comments from the Director as to any deficiencies in any plans or reports submitted under this Amended SCO. For good cause, in the Director's discretion, the Director shall provide reasonable extensions of time for deadlines referenced in this Amended SCO. Any deadline extensions granted by the Director shall be documented in writing and shall be deemed to amend this Amended SCO.
4. Licensee's timely implementation of the 2022 Work Plan and the requirements of this Amended SCO shall be deemed to satisfy Licensee's compliance obligations under R317-6-6.15(C) and (D)(1) to conduct a Contamination Investigation and the Director hereby releases Licensee from claims for civil penalties, under Utah Code Sections 19-5-115(2) and 19-3-109, or otherwise seeking injunctive relief, arising from or relating to (i) Licensee's duty to conduct a Contamination Investigation and (ii) during timely implementation of the 2022 Work Plan, the out-of-compliance status of the Facility with respect to the issues being investigated in the 2022 Work Plan. This release does not apply to spills or new discharges from the Facility or where the Director determines that there is an imminent threat to human health or the environment.
5. For purposes of this Amended SCO, an event of *force majeure* is defined as any event arising from causes beyond the reasonable control of Licensee, including, contractors and subcontractors that delay or prevent performance of any obligation under this Amended SCO, despite Licensee's best reasonable efforts to fulfill the obligation. If Licensee asserts *force majeure*, Licensee shall provide written notice to the Director of the occurrence of an event of *force majeure* that will cause or has caused a delay. The notice shall include a description of the events leading to the event of *force majeure* and Licensee's best estimate of the new timeline to perform the requirements.
6. Licensee shall provide the Director with notification of field activities to be undertaken at the Facility at least 14 days prior to commencement of the activities.
7. Licensee shall dispose of all wastes generated at the Facility at facilities or locations approved to accept the generated wastes.

**GENERAL PROVISIONS**

8. Licensee hereby stipulates and agrees to pay, within 30 days of demand by the Director, stipulated penalties in the following amounts arising from any and all violations of this Amended SCO, on a per-day, per-violation basis:

<b>Penalty Per Violation Per Day</b>	<b>Period of Noncompliance</b>
\$1,000	1st through 14th day
\$2,500	15th through 30th day
\$5,000	31st day and beyond

9. In the event of any violation of this Amended SCO with criminal negligence, within the meaning of Utah Code Section 19-5-115(1)(a), the Director reserves the right, in the Director's sole discretion, to seek the imposition of fines and civil penalties under that section in addition to stipulated administrative penalties under this Amended SCO.
10. Nothing in this Amended SCO shall be construed as prohibiting, altering, or in any way limiting the ability of the Director to seek injunctive relief pursuant to Utah Code Section 19-5-115 arising from violations of this Amended SCO, the Water Quality Act, or the Utah Administrative Procedures Act.
11. This Amended SCO does not in any way relieve the Licensee from any other obligation imposed under the License, the Radiation Control and Water Quality Acts, or any other state, federal, or local law, rule, or regulation. The Director reserves, and this Amended SCO is without prejudice to, all rights against the Licensee that the Director may have pertaining to matters not addressed in this Amended SCO, including: (a) future violations of the law, regulations, or the License; and (b) criminal liability.
12. The Director has the jurisdiction and authority to make the findings set forth in this Amended SCO and to otherwise enforce the terms of this Amended SCO.
13. The person signing this Amended SCO on behalf of Licensee hereby represents to the Director that he or she is legally authorized to do so and agrees that the Director may rely on this representation.
14. The date of issuance shall be the date this Amended SCO is executed by the Director.
15. As of the date of issuance, this Amended SCO shall constitute a final administrative order and shall operate as a final adjudication upon the merits of the matters addressed herein. In the Director's sole discretion, violations of this Amended SCO may result in the commencement of an action for civil enforcement in state district court, by the attorney general, as provided in Utah Code Section 19-5-115(7)(a). Such actions may seek injunctive or other relief, including the imposition and collection of civil penalties as allowed by law. Licensee agrees that in any enforcement action, it shall not contest the finality or validity of this Amended SCO or the Director's authority to enter it as a final administrative order.

16. For purposes of formal notices under this Amended SCO, the Director's address is as follows:

Douglas J. Hansen, Director  
Division of Waste Management and Radiation Control  
Utah Department of Environmental Quality  
195 North 1950 West  
P.O. Box 144880  
Salt Lake City, Utah 84114-4880

DATED this 30<sup>th</sup> day of November, 2023.

RIO ALGOM MINING LLC

UTAH DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL

By 

Sandra L. Ross  
Vice President

By 

Douglas J. Hansen  
Director